

IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
3:08cr4

UNITED STATES OF AMERICA                          )  
  )  
  )  
vs.    )  
  )  
NICOLE JENNIFER EZELIUS                          )  
  )  
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  )

ORDER

**THIS MATTER** is before the Court upon motion of the defendant to remit or reduce the amount of court-appointed counsel fees imposed at the sentencing hearing on August 4, 2008. (Doc. No. 44).

Title 18, United States Code, Section 3006A(f) authorizes a court to direct reimbursement for an appointed attorney when it finds that a defendant has funds available for payment. United States v. Moore, No. 94-5925, 1998 WL 85296, at \*1 (4th Cir. Mar. 2, 1998)(unpublished). The Court made such a finding at sentencing, and the defendant did not appeal that determination. In the instant motion, the defendant does not point to any authority to remit or reduce the court-appointed counsel fee in the judgment, which is now final.<sup>1</sup> The defendant also did not provide a financial affidavit from which the Court could determine whether modification of the monthly payment amount is warranted. Accordingly, the Court finds that the defendant has not established that she is entitled to relief.

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<sup>1</sup>Upon motion of the government, a court may modify a fine or special assessment based on a showing that reasonable efforts to collect are not likely to be effective. 18 U.S.C. § 3573; United States v. Roper, 462 F.3d 336, 341 (4th Cir. 2006) (court may not remit without motion of government)).

**IT IS, THEREFORE, ORDERED**, that the defendant's motion (Doc. No. 44) is  
**DENIED**.

The Clerk is directed to certify copies of this order to the defendant, counsel for the defendant, to the United States Attorney, and the United States Probation Office.

Signed: October 3, 2008

  
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Robert J. Conrad, Jr.

Chief United States District Judge

